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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,731	11/12/2003	John Baxter Rollins	RSW920030075US1	7250
37945	7590	10/16/2006		EXAMINER
DUKE W. YEE YEE AND ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380				RAYYAN, SUSAN F
			ART UNIT	PAPER NUMBER
				2167

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/706,731	ROLLINS, JOHN BAXTER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Susan F. Rayyan	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 July 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,5-8,12-16 and 19-22 is/are rejected.
- 7) Claim(s) 2-4,9-11,16-18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07172006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

***Response to Arguments***

**1. Response to Applicant's arguments concerning the rejection of claims 1-22 under 35 U.S.C. 101 as directed to non-statutory subject matter.**

Applicant argues "the claim recites steps for transferring data from a relational database into a database of another kind" and "making the data available for analysis in a different database as recited in claim 1, clearly transfers data from a source database that makes the data usable in a destination database" and "placing the prepared data into the database table which is a step reciting storage of data".

Examiner respectfully disagrees and finds the claim recites, "reading the data from a relational database table in the relational database into a temporary data set" and not into a database of another kind, a destination database or the database. The claims do not provide a real world result.

The rejection of claims 1-22 under 35 U.S.C. 101 as directed to non-statutory subject matter is maintained.

**2. Response to Applicant's arguments of claims rejected under 35 U.S.C. 103(a) as being unpatentable over "SAS Connections to DB2: Tools and Techniques" by Judy Loren ("Loren") and United States Patent Number 6,728,726 issued to Phillip A. Bernstein et al ("Bernstein").**

Applicant's arguments filed on July 17, 2006 have been fully considered but they are not persuasive.

Art Unit: 2167

2.1 Applicant argues ““claim 1 recites creating a database table for the relational database” These features make clear that the data analysis is performed on the data, which is created in the database other than the relational table that is the source of the data”.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., “analysis is performed on the data”, “the database other than the relational database”, and “analysis of the data in the database other than the relational database”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The claim cites “creating a database table for the relational database” as compared to the Applicants' arguments of creating a database table for the database.

The claim cites “placing the prepared data into the database table, wherein the prepared data is ready for analysis” as compared to the Applicants' arguments that the analysis is performed on data which is placed in a database table other than a relational table.

Art Unit: 2167

2.2 Applicant argues Loren does not teach preparing the data read from the relational table ... to form prepared data ready for analysis, Loren does teach this limitation at p. 499, lines 11-12 as results returned as a relational SAS dataset.

2.3 Applicant argues Loren does not teach creating a database table for the relational database. Loren does teach this limitation at p.9, line 12, as "Create Table".

2.4 Applicant argues Examiner cited Bernstein as teaching "creating a database table for the relational table". Examiner cited Loren as teaching this limitation see p. 4, line 1 of First Office Action.

2.5 Applicant argues Bernstein does not each "preparing data". Loren teaches preparing the data as cited in the First Office Action. Bernstein taught the "creating a temporary dataset" as cited in the First Office Action.

2.6 In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Loren teaches:

responsive to receiving user input, identifying data from a relational database (page 499, lines 9-11, query relational database and retrieve SAS dataset); preparing the data read from the relational database table ... to form prepared data for analysis (page 499, lines 9-11, SAS dataset); creating a database table for the relational database; and placing the prepared data into the database table, wherein the prepared data is ready for analysis (page 499, lines 9-12).

Loren does not explicitly teach creating a temporary data set and reading data from a relational database table in the relational database into the temporary data set created in response to the user input. Bernstein does teach this limitation at col.7, lines 30-31. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide storage for the results returned by a query (column 1, lines 65-67).

2.7 In response to applicant's argument that Bernstein et al (US 6,728,726) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Applicants' filed of endeavor falls under Class 707 Data Processing: Database and File Management or Data Structures. Bernstein is classified under Class 707/ 103. The use of Bernstein for the temporary data set limitation would

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fall under Class 707 and Bernstein teaches the storage cache is a temporary table that contains the results of queries (column 7, lines 30-31).

2.8 Applicant's arguments, see response filed on July 17, 2006 (section III.B), with respect to claims 2-3,9-10,16-17 have been fully considered and are persuasive. The rejection of claims 2-3, 9-10,16-17 has been withdrawn.

#### **DETAILED ACTION**

3. Claims 1-22 are pending.

##### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on July 17, 2003 was filed before Final Office Action. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

##### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 -22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application with useful, concrete and tangible result.

A practical application can be either physical transformation or a useful, concrete and tangible result.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Claims 1,8,15,22 in view of the above cited MPEP sections, are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application. The claim language recites "identifying data from a relational database and creating a temporary data set", "reading data from a relational database table", "preparing the data", "creating a database table for the relational database", and "placing the prepared data into the database table, wherein the prepared data is ready for analysis". The claim does not provide a real world result as it does not store or display the results to the user.

The machine-readable medium as recited in the claims 15-21 can be a storage medium as well as a "signal bearing media" or "transmission type media" as described

in applicant's disclosure. Claim 15, and other claims that depend in it, are not patent eligible because the invention recited therein is not tangibly incorporated in a computer readable storage medium.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1,5-8, 12-15,19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over “SAS Connections to DB2: Tools and Techniques” by Judy Loren (“Loren”) and United States Patent Number 6,728,726 issued to Phillip A. Bernstein et al (“Bernstein”).**

As per claims 1,8,15,22 Loren teaches:

responsive to receiving user input, identifying data from a relational database (page 499, lines 9-11, query relational database and retrieve SAS dataset); preparing the data read from the relational database table ...to form prepared data for analysis (page 499, lines 9-11, SAS dataset); creating a database table for the relational database; and placing the prepared data into the database table, wherein the prepared data is ready for analysis (page 499, lines 9-12).

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Loren does not explicitly teach creating a temporary data set and reading data from a relational database table in the relational database into the temporary data set created in response to the user input. Bernstein does teach this limitation at col.7, lines 30-31. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide storage for the results returned by a query (column 1, lines 65-67).

As per claims 5,12,19 same as claim arguments above and Loren teaches:  
wherein the temporary data set is a SAS data set (page 499, lines 11-12, SAS dataset).

As per claims 6,13,20 same as claim arguments above and Loren teaches:  
wherein generation of output flat files is avoided (page 499, lines 6-11);

As per claims 7,14,21 same as claim arguments above and Loren teaches:  
wherein the user input is a query (page 499, line 9).

7. Claims 2-4,9-11,16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (571) 272-1675. The examiner can normally be reached M-F: 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan Rayyan

October 11, 2006



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